

under paragraph (b)(2)(i) of this section, as a result of a decision in or settlement of litigation concerning such submission, then the Administrator will use the data as so revised to recalculate the amounts of TR NO_x Ozone Season allowances that owners and operators are required to hold in accordance with the calculation formula in § 97.506(c)(2)(i) for such control period with regard to the TR NO_x Ozone Season sources, TR NO_x Ozone Season units, and State (and Indian country within the borders of such State) involved, provided that such litigation was initiated no later than 30 days after promulgation of such notice required in paragraph (b)(2)(iii)(B) of this section.

(iii) If the revised data are used to recalculate, in accordance with paragraphs (b)(6)(i) and (ii) of this section, the amount of TR NO_x Ozone Season allowances that the owners and operators are required to hold for such control period with regard to the TR NO_x Ozone Season sources, TR NO_x Ozone Season units, and State (and Indian country within the borders of such State) involved—

(A) Where the amount of TR NO_x Ozone Season allowances that the owners and operators are required to hold increases as a result of the use of all such revised data, the Administrator will establish a new, reasonable deadline on which the owners and operators shall hold the additional amount of TR NO_x Ozone Season allowances in the assurance account established by the Administrator for the appropriate TR NO_x Ozone Season sources, TR NO_x Ozone Season units, and State (and Indian country within the borders of such State) under paragraph (b)(3) of this section. The owners' and operators' failure to hold such additional amount, as required, before the new deadline shall not be a violation of the Clean Air Act. The owners' and operators' failure to hold such additional amount, as required, as of the new deadline shall be a violation of the Clean Air Act. Each TR NO_x Ozone Season allowance that the owners and operators fail to hold as required as of the new deadline, and each day in such control period, shall be a separate violation of the Clean Air Act.

(B) For the owners and operators for which the amount of TR NO_x Ozone Season allowances required to be held decreases as a result of the use of all such revised data, the Administrator will record, in all accounts from which TR NO_x Ozone Season allowances were transferred by such owners and operators for such control period to the assurance account established by the Administrator for the appropriate at TR NO_x Ozone Season sources, TR NO_x Ozone Season units, and State (and Indian country within the borders of such State) under paragraph (b)(3) of this section, a total amount of the TR NO_x Ozone Season allowances held in such assurance account equal to the amount of the decrease. If TR NO_x Ozone Season allowances were transferred to such assurance account from more than one account, the amount of TR NO_x Ozone Season allowances recorded in each such transferor account will be in proportion to the percentage of the total amount of TR NO_x Ozone Season allowances transferred to such assurance account for such control period from such transferor account.

(C) Each TR NO_x Ozone Season allowance held under paragraph (b)(6)(iii)(A) of this section as a result of recalculation of requirements under the TR NO_x Ozone Season assurance provisions for such control period must be a TR NO_x Ozone Season allowance allocated for a control period in a year before or the year immediately following, or in the same year as, the year of such control period.

[76 FR 48406, Aug. 8, 2011, as amended at 77 FR 10338, Feb. 21, 2012]

§ 97.526 Banking.

(a) A TR NO_x Ozone Season allowance may be banked for future use or transfer in a compliance account or a general account in accordance with paragraph (b) of this section.

(b) Any TR NO_x Ozone Season allowance that is held in a compliance account or a general account will remain in such account unless and until the TR NO_x Ozone Season allowance is deducted or transferred under § 97.511(c), § 97.523, § 97.524, § 97.525, § 97.527, or § 97.528.